

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARVIN McELROY,

Plaintiff,

No. CIV S-04-0498 FCD DAD P

vs.

E. EDELHOFER, et al.,

Defendants.

ORDER

Plaintiff has filed two motions for appointment of counsel. By order filed April 9, 2004, plaintiff was advised that the United States Supreme Court has ruled that district courts lack authority to require attorneys to represent indigent prisoners in § 1983 cases. See Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel, but the court cannot require such assistance See 28 U.S.C. § 1915(e)(1); Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the court does not find the required exceptional circumstances. Plaintiff's motions will therefore be denied.

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1 Accordingly, IT IS HEREBY ORDERED that plaintiff's motions for appointment
2 of counsel filed July 29, 2005, and August 10, 2005, are denied.

3 DATED: August 15, 2005.

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6 DALE A. DROZD
7 UNITED STATES MAGISTRATE JUDGE

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